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Attorneys for Defendants

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
EUGENE DIVISION

GRACIE ARNOLD, an individual; GRETTA
BAKER, an individual; KIYLYNN
DAWKINS, an individual; HANNE
HOPKINS, an individual; ANA MCCLAVE,
an individual; CALI MCCLAVE, an
individual; JODI NOYES, an individual;
KAILIANA RAMOS, an individual; and PI'O
TU'IVAI, an individual,

Plaintiffs,

v.

WESTERN OREGON UNIVERSITY, a
public university of the State of Oregon;
JESSICA PEATROSS, in her individual
capacity; DEMENTRUS MARLOW, in his
individual capacity; JESSE PETERS, in his
individual capacity; MALISSA LARSON, in
her individual capacity; and RANDI LYDUM,
in her individual capacity,

Defendants.

Case No.:

NOTICE OF REMOVAL

(Marion County Circuit Court Case No.
25CV05549)

DEMAND FOR JURY TRIAL

TO: THE CLERK OF THE COURT FOR THE DISTRICT OF OREGON, EUGENE DIVISION

AND TO: PLAINTIFFS AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT Defendants Western Oregon University, Jessica Peatross, Dementrus Marlow, Jesse Peters, Malissa Larson, and Randi Lydum (collectively, “Defendants”), by and through their undersigned attorneys and pursuant to 28 U.S.C. §§ 1331, 1367, 1441, and 1446, remove this case from Marion County Circuit Court, State of Oregon, to the United States District Court for District of Oregon, Eugene Division. All Defendants consent to the removal of this action as evidenced by their joinder in this Notice of Removal. In support of their Notice of Removal, Defendants state as follows:

BACKGROUND AND TIMELINESS

1. On or about January 29, 2025, Plaintiffs commenced a civil action against Defendants in Marion County Circuit Court, entitled *Gracie Arnold et al. v. Western Oregon University et al.*, Case No. 25CV05549 (the “State Court Action”).

2. All Defendants were served with Plaintiffs’ Complaint after January 29, 2025. Defendant Malissa Larson was served on or about January 31, 2025; Defendants Western Oregon University, Jesse Peters, Randi Lydum,¹ and Dementrus Marlow were served on February 3, 2025; and Defendant Jessica Peatross was served on February 27, 2025. True and correct copies of the Summons and Complaint, together with all process, pleadings, and orders served upon Defendants, are attached as **Exhibit A**.² These documents constitute all “process, pleadings, and orders” served upon Defendants in the State Court Action as required by 28 U.S.C. § 1446(a).

3. This Notice of Removal is timely, as Defendants have filed this Notice of

¹ Ms. Lydum was served again on February 5, 2025.

² Defendants are not including the Requests for Production that were served along with the Summons and Complaint.

Removal within 30 days of service. *See* 28 U.S.C. § 1446(b).

4. Defendants did not answer or otherwise respond to the Complaint prior to filing this Notice of Removal, nor has their time to respond expired. Attached as **Exhibit B** is a copy of the docket in the State Court Action as of February 28, 2025.

THIS CASE IS REMOVABLE BASED UPON FEDERAL QUESTION JURISDICTION

5. In the Complaint, Plaintiffs purport to bring a claim against Defendants Peatross, Marlow, Lydum, Larson, and Peters arising out of 42 U.S.C. § 1983. (*See* Exhibit A, Complaint.) Plaintiffs seek relief in the form of economic and noneconomic damages, along with their attorneys’ fees and the costs of litigation. (*See* Exhibit A, Complaint, ¶¶ 183-84.)

6. Pursuant to 28 U.S.C. § 1441(a), “any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants to the district court of the United States for the district and division embracing the place where such action is pending.”

7. Because Plaintiffs allege that Defendants Peatross, Marlow, Lydum, Larson, and Peters violated 42 U.S.C. § 1983, which is a federal law, this Court has original federal question jurisdiction over this action pursuant to 28 U.S.C. § 1331, which provides that “[t]he district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.” Further, this Court has supplemental jurisdiction over Plaintiffs’ remaining state law claims because they form part of the same case or controversy, deriving from the same common nucleus of operative fact. 28 U.S.C. § 1367.

VENUE AND NOTICE TO STATE COURT

8. Removal is appropriate “to the district court of the United States for the district and division embracing the place where such action is pending.” 28 U.S.C. § 1441(a). Because this action is pending in Marion County Circuit Court, State of Oregon, venue, for purposes of removal, is proper in this Court pursuant to 28 U.S.C. §§ 1441 and 1446(a) and LR 3-2(a)(3). Defendants, therefore, remove this action to the United States District Court for the District of Oregon, Eugene Division.

9. Promptly upon the filing of this Notice of Removal, Defendants shall provide notice of the removal to Plaintiffs through their attorneys of record in the State Court Action. Notice of Filing of Removal to Federal Court, together with a copy of the Notice of Removal, will promptly be filed with the Clerk of the Marion County Circuit Court, State of Oregon, pursuant to 28 U.S.C. § 1446(d).

CONCLUSION

10. Defendants submit this Notice of Removal reserving all defenses and without waiving any defenses to the claims asserted by Plaintiffs, without conceding that Plaintiffs have pleaded claims upon which relief can be granted, and without admitting that Plaintiffs are entitled to any monetary or equitable relief whatsoever (or that the damages they seek may be properly sought).

11. Should Plaintiffs seek to remand this case to state court, Defendants respectfully ask that Defendants be permitted to brief and argue the issue of this removal prior to any order remanding this case. In the event the Court decides remand is proper, Defendants ask that the Court retain jurisdiction and allow Defendants to file a motion asking this Court to certify any remand order for interlocutory review by the Ninth Circuit Court of Appeals, pursuant to 28 U.S.C. § 1292(b). Further, in the event the Court decides remand is proper, Defendants expressly reserve the right to request a change of venue in the State Court Action.

12. Based on the foregoing, this Court has original federal question jurisdiction over this action pursuant to 28 U.S.C. § 1331 due to Plaintiffs' 42 U.S.C. § 1983 claim and supplemental jurisdiction over Plaintiffs' state law claims pursuant to 28 U.S.C. § 1367. Therefore, the Court properly may exercise jurisdiction over this lawsuit. *See* 28 U.S.C. § 1441.

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WHEREFORE, Defendants submit that this action properly is removable based on original federal question jurisdiction and respectfully request that the above-described action pending against them be removed to the United State District Court for the District of Oregon, Eugene Division. Defendants also request all other relief, at law or in equity, to which they justly are entitled.

DATED: February 28, 2025

STOEL RIVES LLP

/s/ Tyler Killeen

MISHA ISAAK, OSB No. 086430

ANDREA H. THOMPSON, OSB No. 084923

TYLER KILLEEN, OSB No. 165136

Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing NOTICE OF REMOVAL on the following named person(s) on the date indicated below by

- ☒ mailing with postage prepaid
- ☐ hand delivery
- ☐ facsimile transmission
- ☐ overnight delivery
- ☐ email
- ☒ notice of electronic filing using the Cm/ECF system

to said person(s) a true copy thereof, contained in a sealed envelope if by mail, addressed to said person(s) at his or her last known address(es) indicated below.

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DATED: February 28, 2025.

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